

HB0346S01 compared with HB0346

~~deleted text~~ shows text that was in HB0346 but was deleted in HB0346S01.

inserted text shows text that was not in HB0346 but was inserted into HB0346S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Stephen G. Handy proposes the following substitute bill:

URBAN REDEVELOPMENT TAX CREDIT

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates an urban redevelopment tax credit.

Highlighted Provisions:

This bill:

- ▶ creates a nonrefundable urban redevelopment tax credit;
- ▶ provides a process by which a qualified investor may claim an urban redevelopment tax credit; and
- ▶ requires the developer to submit an annual report regarding an urban redevelopment project.

Money Appropriated in this Bill:

None

Other Special Clauses:

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This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

35A-8-2101, Utah Code Annotated 1953

35A-8-2102, Utah Code Annotated 1953

35A-8-2103, Utah Code Annotated 1953

35A-8-2104, Utah Code Annotated 1953

35A-8-2105, Utah Code Annotated 1953

35A-8-2106, Utah Code Annotated 1953

59-7-621, Utah Code Annotated 1953

59-10-1036, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **35A-8-2101** is enacted to read:

Part 21. Urban Redevelopment Tax Credit

35A-8-2101. Title.

This part is known as "Urban Redevelopment Tax Credit."

Section 2. Section **35A-8-2102** is enacted to read:

35A-8-2102. Definitions.

(1) "Agency" means a community development and renewal agency as defined in Section 17C-1-102.

(2) "Community" means a county, city, or town within which an urban redevelopment project is located or is proposed to be located.

(3) "Credit allowance date" means:

(a) the date on which a qualified investor first claims a tax credit; and

(b) each of the nine anniversary dates of the date described in Subsection ~~(1213)~~(a).

(4) "Developer" means a person that executes a development agreement with an agency for the purpose of constructing an urban redevelopment project.

(5) (a) "Local contribution" means money, an asset, or other valuable contribution that the community or the agency agrees to contribute to an urban redevelopment project, including:

(i) simplified procedures for obtaining a permit;

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(ii) dedication of an available government grant;

(iii) infrastructure improvements;

(iv) a utility rate concession; or

(v) any portion of the agency's housing funds, as defined in Section 17C-1-102.

(b) Except as provided in Subsection (5)(a)(v), "local contribution" does not include tax increment, as defined in Section 17C-1-102.

(6) "Long-term debt instrument" means a debt instrument issued by an investor:

(a) with an original maturity date of at least 10 years after the day on which the debt instrument is issued; and

(b) with no repayment, amortization, or prepayment features before the debt instrument's maturity date.

(7) "Project" means a redevelopment project that improves previously developed land, including:

(a) constructing or altering the land; or

(b) demolishing, constructing, or reconstructing a building.

(8) "Qualified investment" means an investment in an urban redevelopment project that:

(a) includes:

(i) an equity investment; or

(ii) a long-term debt instrument; and

(b) is certified by the division in accordance with Section 35A-8-2105.

(9) "Qualified investor" means a person, including a developer, that makes a qualified investment and is eligible to claim a tax credit.

(10) "Tax credit" means a nonrefundable tax credit for an urban redevelopment project as described in Section 59-7-621 or 59-10-1036.

(11) "Tax credit allocation" means the amount of a tax credit that a qualified investor is eligible to claim.

(12) "Tax credit certificate" means a certificate issued by the division to a qualified investor that:

(a) states the qualified investor's:

(i) name; and

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(ii) tax identification number;

(b) confirms that the division authorizes the qualified investor to receive a tax credit;

(c) states the amount of tax credit that the division authorizes the qualified investor to receive for the calendar year; and

(d) includes any other information determined by the division.

(13) "Urban redevelopment project" means a project that meets the requirements of Subsection 35A-8-2103(5).

Section 3. Section **35A-8-2103** is enacted to read:

35A-8-2103. Tax credit -- Eligibility -- Application process.

(1) An agency shall, in accordance with this section, make a recommendation to the division regarding:

(a) whether a project is an urban redevelopment project;

(b) whether an investment is a qualified investment; and

(c) the amount of the qualified investor's tax credit allocation.

(2) A developer seeking a recommendation from an agency shall file an application with the agency that includes:

(a) a letter of intent from an investor that states the amount of the investor's investment in the project;

(b) a detailed estimation of the project's total costs;

(c) a statement that includes the amount and source of all money that the developer will use to pay for the project, including documentation of the developer's own equity; and

(d) any other documentation the agency requests.

(3) Upon receipt of a complete application described in Subsection (2), an agency shall:

(a) provide notice and hold a public hearing in accordance with Title 17C, Chapter 2, Part 4, Hearing and Notice Requirements; and

(b) at the public hearing:

(i) evaluate the developer's application using the criteria described in Subsections (5) and (6); and

(ii) by resolution:

(A) make a recommendation described in Subsection (1); and

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(B) certify the amount of any local contribution.

(4) After the agency adopts a resolution described in Subsection (3)(b)(ii), a qualified investor may apply to the division for a tax credit certificate in accordance with Section 35A-8-2104.

(5) An agency may recommend that a project is an urban redevelopment project if the project:

(a) provides positive direct and indirect benefits to the tax base of the community;

(b) reduces or eliminates blight;

(c) is only financially feasible with a tax credit;

(d) costs at least \$3,500,000 to complete;

(e) is located within a project area, as defined in Section 17C-1-102, in which the agency makes a finding of blight in accordance with Section 17C-2-102;

(f) upon completion, has no more than 20% of the land area dedicated for commercial use;

(g) is subject to a development agreement between a developer and an agency; and

(h) provides additional benefits that align with the agency's goals.

(6) (a) An agency may recommend that an investment in an urban redevelopment project is a qualified investment if:

(i) the developer provides the agency with a letter of intent from an investor to invest in the project; and

(ii) the agency determines that the investor's investment will be used to pay for all or a portion of the urban redevelopment project.

(b) If the agency recommends that the investment is a qualified investment in accordance with Subsection (6)(a), subject to Subsection 35A-8-2105(2), the agency shall determine the amount of the qualified investor's tax credit allocation.

Section 4. Section **35A-8-2104** is enacted to read:

35A-8-2104. Applying for a tax credit certificate.

(1) A qualified investor:

(a) may claim a tax credit against the qualified investor's tax liability under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Title 50, Chapter 10, Individual Income Tax Act; and

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(b) is eligible to apply for a tax credit certificate in accordance with this section:

(i) after the qualified investor pays the qualified investment to the developer for an urban redevelopment project; and

(ii) if the urban redevelopment project receives one or more local contributions that equal at least 50% of the tax credit allocation.

(2) (a) A qualified investor shall submit an application to the division for a tax credit certificate.

(b) The application described in Subsection (2)(a) shall include:

(i) a copy of the resolution described in Subsection 35A-8-2103(4);

(ii) the qualified investor's tax identification number;

(iii) proof that the qualified investor made the qualified investment; and

(iv) any additional information the division requests.

(3) The division shall verify the application described in Subsection (2) and issue a tax credit certificate as described in Subsection (4).

(4) The division shall, in accordance with Section 35A-8-2105:

(a) issue the first tax credit certificate no later than January 1 of the year immediately following the year in which the division verifies an application described in Subsection (2);

(b) issue a tax credit certificate on each subsequent credit allocation date; and

(c) provide the State Tax Commission a copy of each tax credit certificate described in Subsections (4)(a) and (b).

Section 5. Section **35A-8-2105** is enacted to read:

35A-8-2105. Tax credit structure.

(1) (a) The division may allocate up to \$4,000,000 of tax credit to all qualified investors each fiscal year.

(b) The division shall allocate tax credits to qualified investors in the order in which the division receives the qualified investors' applications described in Subsection 35A-8-2104(2).

(2) (a) A tax credit allocation may not exceed 35% of the qualified investment.

(b) On each credit allowance date for 10 consecutive years, the qualified investor may claim an equal proportion of the tax credit allocation.

Section 6. Section **35A-8-2106** is enacted to read:

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35A-8-2106. Monitoring and recapture.

(1) On or before December 1 of each year during which a qualified investor claims a portion of the qualified investor's tax credit allocation, the developer shall prepare and electronically submit a report to the agency and the division that includes:

(a) a description of the progress made toward completing the urban redevelopment project;

(b) a detailed statement of the developer's expenditures related to the urban redevelopment project; and

(c) any additional information the agency or division requests.

(2) The division may recapture a tax credit from a qualified investor that claims a tax credit authorized under Section 59-7-621 or 59-10-1036:

(a) if the developer redeems or makes principal repayment with respect to a qualified investment before the 10th anniversary of the first credit allocation date; and

(b) in an amount proportionate to the amount of the redemption or repayment.

(3) The division may not recapture a tax credit until the division:

(a) notifies the qualified investor of noncompliance; and

(b) gives the qualified investor six months from the day on which the division provides the notice described in Subsection (3)(a) to cure the noncompliance.

(4) A recaptured tax credit under this section reverts back to the division and shall be reissued in accordance with Section 35A-8-2104.

Section 7. Section **59-7-621** is enacted to read:

59-7-621. Nonrefundable tax credit for urban redevelopment project.

(1) As used in this section:

(a) "Agency" means a community development and renewal agency, as defined in Section 17C-1-102.

(b) "Division" means the Housing and Community Development Division.

(c) "Qualified investor" means the same as that term is defined in Section 35A-8-2102.

(d) "Tax credit certificate" means the same as that term is defined in Section 35A-8-2102.

(e) "Urban redevelopment project" means the same as that term is defined in Section 35A-8-2102.

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(2) Subject to the provisions of this section, a qualified investor may claim a nonrefundable tax credit against the qualified investor's tax liability under this chapter.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the division issues under Title 35A, Chapter 8, Part 21, Urban Redevelopment Tax Credit, to the qualified investor for a taxable year.

(4) A qualified investor may carry forward a tax credit claimed for a given taxable year for a period that does not exceed 10 taxable years after the taxable year indicated on the tax credit certificate if, for the taxable year:

(a) the qualified investor is allowed to claim a tax credit under this section; and

(b) the amount of the tax credit exceeds the qualified investor's tax liability under this chapter.

(5) (a) On or before October 1, 2021, and every five years after October 1, 2021, the Revenue and Taxation Interim Committee shall study the tax credit authorized by this section and make a recommendation to the Legislative Management Committee concerning whether the Legislature should continue, modify, or repeal the tax credit.

(b) For purposes of the study described in Subsection (5)(a), the division shall, in consultation with the agency, provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the division grants to each qualified investor for each taxable year;

(ii) the progress of each urban redevelopment project for which a tax credit was authorized; and

(iii) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's recommendation under Subsection (5)(a) includes an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 8. Section **59-10-1036** is enacted to read:

59-10-1036. Nonrefundable tax credit for urban redevelopment project.

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(1) As used in this section:

(a) "Agency" means a community development and renewal agency, as defined in Section 17C-1-102.

(b) "Division" means the Housing and Community Development Division.

(c) "Qualified investor" means the same as that term is defined in Section 35A-8-2102.

(d) "Tax credit certificate" means the same as that term is defined in Section 35A-8-2102.

(e) "Urban redevelopment project" means the same as that term is defined in Section 35A-8-2102.

(2) Subject to the provisions of this section, a qualified investor may claim a nonrefundable tax credit against the qualified investor's tax liability under this chapter.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the division issues under Title 35A, Chapter 8, Part 21, Urban Redevelopment Tax Credit, to the qualified investor for a taxable year.

(4) A qualified investor may carry forward a tax credit claimed for a taxable year for a period that does not exceed 10 taxable years after the taxable year indicated on the tax credit certificate if, for the taxable year:

(a) the qualified investor is allowed to claim a tax credit under this section; and

(b) the amount of the tax credit exceeds the qualified investor's tax liability under this chapter.

(5) (a) On or before October 1, 2021, and every five years after October 1, 2021, the Revenue and Taxation Interim Committee shall study the tax credit authorized by this section and make a recommendation to the Legislative Management Committee concerning whether the Legislature should continue, modify, or repeal the tax credit.

(b) For purposes of the study described in Subsection (5)(a), the division shall, in consultation with the agency, provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the division grants to each qualified investor for each taxable year;

(ii) the progress of each urban redevelopment project for which a tax credit was authorized; and

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(iii) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's recommendation under Subsection (5)(a) includes an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 9. **Effective date.**

This bill takes effect for a taxable year beginning on or after January 1, ~~2017~~ 2016.

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Legislative Review Note

Office of Legislative Research and General Counsel